

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROMEO COSCIA	:	
	:	
v.	:	CIVIL ACTION NO. 02-3655
	:	
SALVATORE CAPONE	:	

ORDER

AND NOW, this day of , 200 , IT IS
ORDERED that Plaintiff's Motion for Extension of Discovery is
DENIED.

BY THE COURT:

U.S.D.J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROMEO COSCIA :
 :
 v. : CIVIL ACTION NO. 02-3655
 :
 SALVATORE CAPONE :

ALTERNATIVE ORDER

AND NOW, this day of , 200 , IT IS
ORDERED that Plaintiff's Motion for Extension of Discovery is
GRANTED only in part, and otherwise DENIED, as follows:

1. Plaintiff may serve copies of the uncertified
copies of the bank statements referred to in the letter dated
December 5, 2002, from Luciano Trofa, attorney-at-law, accompa-
nied by a request for admission of the authenticity of those
documents;

2. If defendant fails to make an unqualified admission
of those documents' authenticity within the time allowed by the
Federal Rules of Civil Procedure, plaintiff is granted leave to
acquire certified copies of the bank statements referred to in
the letter of Luciano Trofa, only; and

3. In all other respects Plaintiff's Motion for
Extension of Discovery is DENIED.

BY THE COURT:

U.S.D.J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROMEO COSCIA	:	
	:	
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	:	
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DEFENDANT'S ANSWER TO
PLAINTIFF'S MOTION FOR EXTENSION OF DISCOVERY

Defendant, Salvatore Capone, by his attorneys, Vangrossi and Recchuiti, answers Plaintiff's Motion for Extension of Discovery, as follows:

1. Defendant incorporates by reference his Answer to Plaintiff's Motion to Continue Arbitration Hearing and this Court's Order denying that Motion as if fully set forth herein.

2. Admitted in part, although the letter attached to plaintiff's Motion as Exhibit "A" states that uncertified copies of the documents in question have already been obtained, and have been forwarded to him. Plaintiff has failed to attach those documents to his Motion.

3. Admitted.

4. Admitted.

5. Admitted in part and denied in part. The documents attached as exhibits to plaintiff's Motion speak for themselves, and all characterizations are denied. It is further averred that the attached letter transmits uncertified copies of the documents

in question, so plaintiff knows what they contain, but has deliberately withheld this information.

6. Denied. Uncertified copies of those documents have already been obtained.

7. Admitted in part and denied in part. The transcript speaks for itself, and all characterizations of it are denied as conclusions of law. Mr. Coscia never offered testimony to rebut the testimony in the attached transcript, that he was engaged in money laundering.

8. Denied.

9. Admitted, although it is further averred that the proposed Order attached to Mr. Coscia's Motion reopens discovery in general, without limitation to the documents which are supposedly the subject of his Motion. Unrestricted discovery would be abusive, and in violation of the discovery limitations imposed by the Court of Common Pleas of Chester County, Pennsylvania, in Case No. 01-06217, a true and correct copy of which was attached as Exhibit "B" to Defendant's Answer to Plaintiff's Motion for Continuance of Arbitration.

WHEREFORE, defendant prays that plaintiff's Motion be denied, or, in the alternative, that further discovery be limited

to seeking an admission of the authenticity of the documents Mr. Coscia has but will not reveal, and, in default of that, to obtaining certified copies of those particular documents.

VANGROSSI AND RECCHUITI

By: _____
Francis Recchuiti, Esquire
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(610) 279-4200
Attorney for Salvatore Capone

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DEFENDANT'S MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S MOTION FOR EXTENSION OF DISCOVERY

In this action to collect an alleged undocumented loan plaintiff, Romeo Coscia, has demanded a trial de novo after losing the arbitration hearing. Prior to that hearing this Court denied plaintiff's Motion for a Continuance and open-ended discovery of Italian bank records. Now, Mr. Coscia has filed a Motion which purports to address only certified copies of bank records, but seeks an Order that allows discovery without limitation for a period of more than five months.

Attached to Mr. Coscia's Motion as Exhibit "A" is a translation of a letter written by Luciano Trofa, to him, on December 5, 2002. It states:

"I have prepared the petition to the Court of Avellino to obtain from the Federal Public Prosecutor the authorization to acquire certified copies of bank statements recording the movements in the checking accounts with the Banca Popolare dell'Irpinia - Avellino Branch Office - and with the Banca Cooperative - Volturara Branch Office - uncertified copies of which I have enclosed for you." [emphasis added]

Despite having those documents, Mr. Coscia failed to

attach copies to his Motion, or to refer to their contents. It is respectfully suggested that this is indicative of their irrelevance to this action. In any case, open-ended discovery should not be allowed, and discovery should be limited to the specific bank records in question.

Furthermore, there is no reason to pursue certified copies because a far less expensive means of discovery is available: Mr. Coscia should be directed to serve copies of those documents, and seek an admission of their authenticity. Only if that request is denied should the time to obtain certified copies be expended. In any event, this Court should not sign the open-ended Order proposed by Mr. Coscia, allowing unlimited discovery, until May 31, 2003. Such discovery is not sought in bad faith, and would tend to violate the prohibition on discovery of the parties' business affairs relating to the two corporations in receivership which was imposed by the Court of Common Pleas of Chester County. (See Exhibit "B" to Defendant's Answer to Plaintiff's Motion for Continuance of Arbitration)

Respectfully submitted,

VANGROSSI AND RECCHUITI

By: _____
Francis Recchuiti, Esquire
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Norristown PA 19401-4801
(610) 279-4200
Attorney for Salvatore Capone

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing proposed Order, Alternative Order, Defendant's Answer to Plaintiff's Motion for Extension of Discovery, and Defendant's Memorandum of Law in Opposition to Plaintiff's Motion for Extension of Discovery, upon Joseph M. Armstrong, Esquire, attorney for the plaintiff, Romeo Coscia, by first class mail, postage prepaid, as follows:

Joseph M. Armstrong, Esquire (215) 751-9666
Eizen Fineburg & McCarthy, P.C.
Two Commerce Square
2001 Market Street, Suite 3410
Philadelphia PA 19103
(Attorney for Plaintiff, Romeo Coscia)

Francis Recchuiti, Esquire

Date: December 20, 2002